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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,361	07/10/2000	Jay S. Walker	96-139XX	9450

22927 7590 01/19/2006

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EXAMINER

COLBERT, ELLA

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/613,361	Applicant(s) WALKER ET AL.	
	Examiner Ella Colbert	Art Unit 3624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

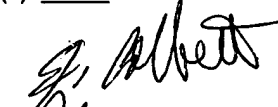
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 70-79 and 81-91.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.


 Primary Examiner

Continuation of 11. does NOT place the application in condition for allowance because: Response to Applicants' arguments: Issue no. 1: Applicants' argue: Gregory fails to teach or suggest the method for issuing a gift certificate corresponding to a financial account as recited in independent claims 70, 73, 76-79, 81, 83, and 91 has been considered but is not persuasive. Response: The claim limitation argued is in the preamble and accordingly is not given patentable weight. The claim limitation recites "generating, by a computer, a "certificate identifier" corresponding to an account identifier that is associated with a financial account". Thus it is interpreted Gregory teaches the claim limitation that is not argued in col. 5, lines 64-67 and col. 6, lines 1-17 (money order is analogous to gift certificate). Gregory further teaches in col. 6, lines 7 and 8 "the system can be used to print gift certificates with minimal additions". Issue no. 2: Applicants' argue: Gregory fails to produce a gift certificate that includes a certificate identifier ... to an account identifier associated with a financial account, not including an account identifier has been considered but is not persuasive. Response: Gregory was not used to reject "the gift certificate not including an account identifier". Foreman was used to reject this limitation. Issue no. 3: Applicants' argue: Gregory fails to teach to produce a gift certificate with a certificate identifier that is an alias of an account identifier or financial account or credit card account..." has been considered but is not persuasive. Response: Gregory was not used to reject this claim limitation. Foreman was used to reject this claim limitation. Issue no. 4: Applicants' argue: Gregory fails to suggest or teach to distribute the gift certificate to the owner of the financial account as recited in independent claims 70, 76, 78, and 81 has been considered but it not persuasive. Response: It is interpreted that the employee is the owner of the account number in col. 5, lines 65 and 66 of Gregory. Issue no. 5: Applicants' argue: Foreman fails to teach to produce a gift certificate ..." has been considered but is not persuasive. Response: Foreman was not used to reject this claim limitation. Gregory was used to reject the claim limitation "the gift certificate does not include the account identifier". Issue no. 6: Applicants' argue: There is no teaching or suggestion in either Gregory or Foreman (or other evidence of record) to combine then and this rejection is therefore a hindsight reconstruction, using Applicants' claims as a template to reconstruct the invention by picking and choosing isolated disclosures from the prior art. This is impermissible and has been considered but is not persuasive. Response: the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicants' disclosure, such a reconstruction is proper. See in re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). As for motivation, a 35 USC 103 rejection can be made according to MPEP 2144, entitled "RATIONALE MAY BE IN A REFERENCE, OR REASONED FROM COMMON KNOWLEDGE IN THE ART, SCIENTIFIC PRINCIPLES, ART RECOGNIZED EQUIVALENTS, OR LEGAL PRECEDENT". Applicants' claims are not in condition for allowance and do not simplify matters for appeal. Applicants' are respectfully requested to define in the independent claim limitations the inventive concept. Are the account identifier and certificate identifier linked? Applicants' are respectfully requested to clarify this question in the independent claims and to the Examiner.